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ABSTRACT

Chronicles the effort to preserve bilingual education in California following the passage, in November 1986, of Proposition 63 that made English the state's official language. On the day after the election in which this initiative was supported, its sponsors made public their intent to abolish California's bilingual education program. Compromise legislation was defeated. An initial investigation of the efforts of a coalition of organizations to save bilingual education found that the coalition had all but abandoned the legislative arena. The current study, with an alternative focus, is described, and preliminary findings are reported. Data for the study are drawn from papers provided by coalition organizations, statewide meetings conducted by the coalition, newsletters published by the coalition organizations, and status reports from the field offices of state legislators. The report outlines the historical context of bilingual education, demographic and political changes in California, the coalition's efforts, and suggested areas for further research. A list of 10 references is included. (MSE)

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LEGISLATIVE RESPONSE TO PROPOSITION 63: THE FIGHT TO SAVE BILINGUAL EDUCATION IN CALIFORNIA

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LEGISLATIVE RESPONSE TO PROPOSITION 63:

THE FIGHT TO SAVE BILINGUAL EDUCATION IN CALIFORNIA

Introduction

In November, 1986, California voters again assumed center stage in the education policy making apparatus via the initiative process. Propostion 63, a measure declaring English the official state language, was supported by more than 70% of those casting ballots. The day following the election the measure's sponsors called a press conference and indicated that the abolition of California's biligual education program would be one of their main objectives.

The legal provisions of the program required schools to provide instruction in the student's native language whenever there were ten or more students in a grade with a common primary language other than English. Because the law was schedule to expire on June 30, 1987, the 1986-1987 California Legislature became an educational policy making battleground for efforts to save bilingual education for more than 600,000 California school children. That battle was lost after futile attempts to draft compromise legislation sponsored by Assemby Speaker, Willie Brown, in the form of AB 37, which was eventually vetoed by Governor Deukmejian in July, 1987.

The original focus of this research was to study the educational interest group coalition in action in a major legislative arena. However, early investigation revealed that the legislative arena has all but been abandoned by the coalition. This prompted a change in the focus and structure of the research. This paper will describe the study as it is currently being conducted and share preliminary findings. The information has been gathered through examination of papers provided by various member organizations of the coalition fighting on behalf of biligual education, attendance at statewide meetings conducted by the coalition, information appearing in a variety of newsletters published by coalition organizations, and status reports from the field offices of state legislators.

Historical Context of Bilingual Education

It is common knowledge that America was developed and settled by people from many different nations who spoke a multitude of languages. Before the arrival of the Europeans, Native Americans populated the land and spoke several hundred different languages. The first European immigrants came from Spain in the sixteenth century followed by immigrants from the Northern European countries of England, Germany, France, Russia, and Sweden (EdSource, 1988).

Because of this diversity, there was a great deal of flexibility in the language policy of this new nation. Provisions were made between 1774 and 1779 through the acts of the Continental

Congress to publish documents in German because of the large number of German speakers. The language of most schools run by non-English speaking groups reflected their language of origin. This practice continued up until World War I when scholars believe the trend changed due to the great sense of national pride and patriotism which inspired many immigrants to assimilate as rapidly as possible to the American ways. By 1923, thirty-four states had English-only instructional policies (EdSource, 1988).

This trend began to shift slightly with the realization that America was but one of the influential nations of the world. A concern that our lack of knowledge of foreign languages surfaced after the launching of Sputnik by the Russians, and manifested itself in the emphasis on the study of foreign languages in the National Defense Education Act of 1958. In addition, a sensitivity to the rights and needs of individuals was emphasized during the civil rights movement of the 1960s. States began to establish bilingual programs and the federal legislation providing for bilingual education appeared in 1965. The 1974 U.S. Supreme Court decision, Lau v. Nichols, confirmed the schools' responsibility to serve the non-English speaking student who in the court's opinion had been denied equal educational opportunity under English only policies. By 1981 eleven states including California had laws mandating bilingual education.

California's bilingual education program was particularly comprehensive requiring the the student's primary language be used for instruction whenever there were ten or more students in a grade with a common primary language other than English. The management and funding of the program has become increasingly demanding as the number of non-English speakers has expanded dramatically in California. The population explosion occuring in California has been felt quickly in the schools, especially as it impacts bilingual programs. According to the spring 1987 California School Language Census Report, there were 613,224 limited English proficient students. The ten major language groups are: Spanish, Vietnamese, Cantonese, Cambodian, Philipino/Tagalog, Hmong, Korean, Lao, Mandarin, and Japanese. But there are at least thirty-five other language groups represented in the student population.

The appearance of these youngsters in California schools is the result of major demographic changes following recent immigration. Additionally the students' families are poor and underemployed. According to Walters (1986), there is little or no participation by these groups in the political process. He predicts a two-tiered society consisting of an over class and an under class. The over class will continue to influence the activities and policies of the Republican Party leading to more conservative approaches to government. This will be made possible because of the diminishing effectiveness of the Democratic Party among the

non-enfranchised poor. This trend created a political climate perfectly suited for the successful passage of Proposition 63, an initiative that many believe to be a backlash against bilingual education.

Immediately following the landslide passage of Proposition 63 which instituted English as the official state language of California, its proponents declared bilingual education as the next target of their English only movement. The group also took advantage of the success at the polls in California to further their cause throughout the nation. Whereas in 1983 only two states had official English laws or constitutional language, by 1988 the number had risen to fourteen. In 1987, 37 states considered some type of official English language legislation. According to Hispanic Link Weekly Report (1988, January 4), that is double the number introduced in 1986.

In California the battle in the state legislature over bilingual education took on added urgency because the existing law was scheduled to expire in June, 1987, a mere seven months after the passage of Proposition 63. Opponents of bilingual education depended on leadership of Assemblyman Frank Hill of Whittier who is chair of the Republican Caucus. According to Benjamin Lopez of the California Rural Legal Assistance Foundation, Hill's negotiation strategy was to be devious. He pressed for amendments that would eliminate teacher waivers for teachers without bilingual certification, allow complete flexibility at the local level for program development, and require prior

written parental consent for student participation in bilingual programs. But then Hill would change his priorities, throwing the negotiations into confusion.

In the final stages of negotiation between the Republicans and the bilingual advocacy group while Hill was supposedly assessing and weighing the proposals, he told a reporter from a large metropolitan newspaper that he had no intention of agreeing to any of the proposed compromises. Lopez indicates that negotiations ended here with a decision by the bilingual advocates to let the amendments to Willie Brown's AB 37 go to the Senate Floor for consideration. The advocates' strategy was to demonstrate to the governor the level of compromise which they had agreed to in order to develop a bill which the governor would be willing to sign. The Senate including the majority of the Republicans voted overwhelmingly to pass AB 37.

In the meantime under Assemblman Hill's direction, the Republican Caucus sent a letter to Governor Deukmejian urging him to veto the legislation. This letter signed by all members of the caucus eventually served as the outline for the governor's veto message delivered July 24, 1987.

The advocates of bilingual education within the legislature regrouped and utilized a parliamentary procedure which allowed all of the provisions of AB 37 to be incorporated into a similar bill being sponsored by Assemblywoman Theresa Hughes, AB 1783. That piece of legislation has been carried over into the

1987-1988 legislature. Having cleared the Assembly and both the Education and Appropriations Committees in the Senate, AB 1783 remains on the Senate Floor awaiting action. Two other bills have been introduced. The first, AB 951 (Chacon), was a technical amendment that was turned into a resolution. The other, AB 1806 (Longshore, R-Santa Ana), would have required all academic subjects to be taught in English. The Education Committeee voted down the bill.

The bilingual advocates' coalition referred to as California Education Rights Alliance has reassessed the status of its legislative efforts. CERA is made up of such organizations as California Rural Legal Assistance Foundation, California Association for Bilingual Education, Asian and Pacific American Educators, Association of Mexican American Educators, Multicultural Education Training and Advocacy, Inc., Legal Aid Foundation of Los Angeles, Los Angeles County Bilingual Directors, and the Orange County Human Relations Commission. The group determined that as long as Frank Hill remained prominent in the anti-bilingual legislative efforts, the possibility of compromise was futile, according to Benjamin Lopez of CRLA. Further more, Governor Deukmejian continued to show no signs of reconsideration of his position. Consequently the bilingual coalition developed a new strategy.

CERA decided to launch a statewide education/training and monitoring program, the intent of which is to prepare those in the field to serve as watchdogs during this interim period. CABE

president, Aurora Martinez Quevedo, in the January/February, 1988, Newsletter urged members of that organization to get involved at the local level to serve as resources and advisors to school districts. The specific goals for the program were outlined in the February, 1988, El Informe, CRLAF's newsletter. First, educators, parents, attorneys and others will be provided with comprehensive and easily understood information relating to the pre- and post-sunset education rights of limited English proficient students. Second, a statewide monitoring system is to be developed for responding to suspected violations of students' rights. Third, complaints will be developed and filed against those districts when and where appropriate.

The coalition is basing its actions on what it believes to be the continuing legal obligation of school districts to provide bilingual services to limited English proficient students based on the federal regulations that remain in place. These requirements relate to Chapter VII (Bilingual Education) and the regulations which evolved after the Lau v. Nichols decision. Furthermore, despite the sunsetting of the California bilingual education program, the funding has continued due to an unusual provision appearing in Sections 62002 through 62005.5 of the Education Code relative to funding continuation to support the general purposes of sunsetted programs. Just how long that funding will or must continue is far from certain. Melinda Melendez, legislative advocate for the Association of California School Administrators, pointed out that no law has ever been permitted to sunset before adding to the confusion (EDCAL, 1987,

September 21). Further credence is given to program continuation by the issuance by the State Department of Education of a Program Advisory which supports continuation of existing programs with only minor consideration for adjustments.

Melendez went on to interpret the Program Advisory as having identified some areas where, absent specific requirements, programmatic changes could be considered by local school districts. These include instructional methods, staffing, classrom composition, and parent involvement. However, Melendez cautioned school administrators against making any progam changes without seeking legal counsel.

One particularly problematic area is that of certification of bilingual teachers. The State Department of Education indicated in its Program Advisory that continuing this requirement was no longer necessary. The Commission for Teacher Credentialing disagrees citing that the laws relative to certification of teachers in California are still in force. In an attempt to clarify this issue, the Commission asked for an opinion from the State Attorney General. That opinion was delivered January 20, 1988. It basically says that the teacher is not required to hold a credential or certificate specifically authorizing instruction in a language other than English. However, the opinion went on to say that the Commission on Teacher Credentialing could continue to issue credentials and certificates. This decision is clearly a set back for bilingual education proponents, but they are quick to point out that Attorney General opinions are

advisory only; they are not binding. Their purpose is to add clarity, although in this case that issue seems debatable.

Other efforts by the coalition include litigation. The primary case at this time is Teresa P. v. Berkeley Unified School District, a class action case which was filed in U.S. District Court prior to the veto of the bilingual education law. Peter Roos, the META lawyer handling the case sees it as a "...'harbinger' of a new series of legal battles over the rights of LEP pupils..." (Gold, 1987, p. 4) Mr. Roos speculates that because of the lack of leadership from the State Department of Education and the anti-bilingual education political climate, many school districts will elect to provide less than adequate programs for LEP students.

The efforts of the coalition to establish monitoring of school district implementation of bilingual programs seems further warranted by the uncertainty of the funding. Although funding is in place this year, there is no clear directive or precedent as to how long that must continue. Those who look to the federal government's regulations as an incentive for district compliance are reminded by the coalition that the enforcement reputation of the Reagan administration is anything but admirable.

Two factors have served as encouragement to the proponents of bilingual education. The first is the group's successful efforts in blocking Governor Deukmejian's renomination of Angie Papadakis to the State Board of Education. An avid and outspoken opponent

of bilingual education, Mrs. Papadakis failed to win a Senate Rules Committee vote to move her name to the Senate Floor for consideration where her approval was doubtful anyway.

Also, a study has been released regarding bilingual education which brightens the path for advocates of bilingual education. "On Course: Bilingual Education Success in California," conducted by Stephen Krashen and Douglas Biber, linguistic professors at the University of Southern California, found that students in properly designed bilingual programs learn English in three-to-five years, and they achieve at grade level norms for English and Math. Properly designed programs provide for literacy to be developed first in the primary language which then facilitates the transition to English.

Suggestions for Further Research

Despite the uplift brought on by the Papadakis defeat and the Krashen-Biber study, bilingual education appears to be in for a continuing struggle. Several questions remain which warrant further investigation:

1. Large, urban school districts with active bilingual parent groups and well established bilingual programs may be continuing programs as usual. But what about the small, remote school districts with under-represented language minority students. How

are these school districts responding to the expiration of the state bilingual program?

2. If and when the funding from the state is terminated, will even the well established programs continue to operate given the keen competition for scarce resources?

3. Can the federal government be counted on to hold districts accountable under the regulations related to Chapter VII and the Lau remedies?

These and other policy research questions, along with the state's ever changing demographics, will continue to spawn a lively public policy debate about the future of bilingual education here in California. In our view, researchers on all sides of the issue will not be short of fuel in order to continue this important discussion.

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